

Exhibit 1

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE WESTERN DISTRICT OF TEXAS
3 SAN ANTONIO DIVISION

4 -----
5 ROY C. SPEGELE, individually and
6 on behalf of all others similarly situated,

7 Plaintiff,

8 vs.

Case No. 5:17-CV-967-OLG

9 USAA LIFE INSURANCE COMPANY,

10 Defendant.
11 -----

12
13 Videotaped Deposition of SCOTT WITT

14 Thursday, January 30th, 2020

15 9:08 a.m.

16 at
17

18 GASS WEBER MULLINS LLC
19 241 North Broadway
20 Milwaukee, Wisconsin

21 Reported by Tammy R. O'Neal, RPR
22
23
24
25

1 And from that limited data I attempted to
2 extrapolate various elements that would allow me to
3 calculate the damages as shown here.

4 Q Turning to count two -- and feel free to look back at
5 your report. I think it's paragraph 14 -- can you
6 describe what count two damages are in this case?

7 A My understanding is that Plaintiff's theory is that
8 USAA should have been limited to charging only the
9 expenses that were stated in the policy based on the
10 contractual language. I believe in the first year
11 there was an administrative charge, and then in all
12 years including first year, there was a maintenance
13 charge.

14 My understanding is that the calculation
15 that I have performed here takes the viewpoint that
16 any charge in the COI rate that's above and beyond
17 the expected mortality is viewed as an expense, and
18 as such the count two damages would be identical to
19 count one.

20 Q Is -- do you consider profit to be an expense?

21 A It could be from the policyholder's viewpoint.

22 Q Is it? That doesn't sound natural to me. Does that
23 sound right to you?

24 MR. LYTTLE: Object to the form.

25 BY MR. MATTSON:

1 right?

2 MR. LYTTLE: Object to the form.

3 THE WITNESS: Yes.

4 BY MR. MATTSON:

5 Q Another thing that USAA Life considered in setting
6 those cost of insurance rates was expenses, right?

7 MR. LYTTLE: Same objection.

8 THE WITNESS: I believe so.

9 BY MR. MATTSON:

10 Q Another thing they considered was profit, right?

11 MR. LYTTLE: Same objection.

12 THE WITNESS: I really did not review the
13 documents in that it's outside the scope of what I
14 was asked to do. So I have a passing familiarity
15 with them by looking at them, but I -- I'm not an
16 expert on what USAA did and didn't do in the pricing
17 exercise.

18 BY MR. MATTSON:

19 Q I understand that. But one of the things that they
20 considered was profit, correct?

21 MR. LYTTLE: Object to the form.

22 THE WITNESS: I believe I saw reference to
23 that.

24 BY MR. MATTSON:

25 Q And there's nothing -- as somebody who's worked on

1 of any reason why there would be any count three
2 damages prior to 2005. That would all be
3 encapsulated in the count one damages.

4 BY MR. MATTSON:

5 Q Okay. And then what you do is look at from 2005 on
6 what evidence there is at USAA Life about changes in
7 mortality expectations?

8 A Yes.

9 Q Can we look anywhere in Exhibit 1, including its
10 exhibits, and find which documents, which USAA Life
11 documents you would be relying on to perform that
12 calculation?

13 MR. LYTLE: Object to the form.

14 THE WITNESS: I believe they're listed in
15 there. I would be hard pressed to point to them on
16 the fly. I mean I can -- I can get there by
17 following the trail in my report. But I can't off
18 the top of my head tell you which exhibit or what
19 Bates number they are.

20 BY MR. MATTSON:

21 Q In other words there's nothing in Exhibit 1 that says
22 separately, here are the documents I would look at
23 for count three in performing the calculations that
24 you've just been describing these last several
25 minutes?

1 MR. LYTLE: Object to the form.

2 THE WITNESS: I guess I view it as two
3 distinct -- two distinct issues. There's the model
4 and understanding how the model works and how the
5 count three formula is distinct from the count one.
6 And then a separate question is what mortality
7 assumptions do you put into the model in calculating
8 those count three damages. I don't know which you're
9 asking me.

10 BY MR. MATTSON:

11 Q I'm asking you about the second one. And really to
12 try to state it more plainly, can you point me in
13 Exhibit 1 to where I would see the mortality
14 expectations you would -- you would plug into your
15 count three analysis?

16 A Okay, I'm -- I -- in paragraph 73 I describe how for
17 Mr. Spegele's 28th policy year I'm comparing the
18 mortality that was assumed in 2005 when the repricing
19 was done with the expected mortality using the 2017
20 mortality assumption.

21 So my recollection is that the 2017
22 mortality assumption came from a USAA-supplied
23 document that had a mortality study. And there were
24 other such studies in the intervening years between
25 1995 -- I'm sorry, between -- strike that -- between

1 2005 and 2017.

2 I made no effort at this time to -- to go
3 beyond what I just did here. And I looked at the
4 most recent. Seemed clear that there had been
5 substantial mortality improvement. I'll leave it at
6 that.

7 Q So I think I understand. In paragraph 73 of
8 Exhibit 1 you refer to the 2017 mortality
9 assumptions, right?

10 A Yes.

11 Q But I wouldn't find in Exhibit 1, and here's my list
12 of pre 2017, post 2005 mortality assumptions that I
13 would rely on in conducting this count three
14 analysis; is that fair?

15 A I believe that they are listed in the litany of
16 documents that were reviewed and provided, but I
17 don't have -- I don't have a written, you know, step
18 by step these are the mortality studies that I'm
19 going to look at.

20 Q Right.

21 A In my mind everything is fair game that USAA has
22 provided related to this case, related to expected
23 mortality assumptions between the time period 2005
24 and 2017.

25 Q And I think we're on the same page, but let me just

1 be sure. There's nothing in Exhibit 1 that calls --
2 specifically calls out which documents you would look
3 at for that 2005 to 2017 time frame, which documents
4 would inform your understanding of the then-current
5 mortality expectations?

6 A I think that's fair to say. If I am charged to do
7 so, I will look at all of those documents and -- and
8 this is where some actuarial judgment may come in --
9 and formulate an appropriate assumption.

10 MR. MATTSON: Okay. Let's take a short
11 break.

12 THE VIDEOGRAPHER: We're going off the
13 record at 11:24 a.m. This will be the end of media
14 unit number two.

15 (Recess taken from 11:24 to 11:37 a.m.)

16 THE VIDEOGRAPHER: We're back on record at
17 11:37 a.m. This will be the beginning of media unit
18 number three.

19 BY MR. MATTSON:

20 Q Mr. Witt, when you were at Northwestern Mutual, did
21 you ever work on a policy that was designed to lose
22 money from day one and never make money?

23 A No.

24 Q Would doing that be permissible under the actuarial
25 standards of practice?

1 STATE OF WISCONSIN)
2) SS:
3 MILWAUKEE COUNTY)

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

I, Tammy R. O'Neal, RPR and Notary
Public in and for the State of Wisconsin, do hereby
certify that the preceding deposition was recorded by
me and reduced to writing under my personal
direction.

I further certify that said deposition was
taken at Gass Weber Mullins LLC, 241 North Broadway,
Milwaukee, Wisconsin, on the 30th day of January,
2020, commencing at 9:08 a.m. and concluding at 1:56
p.m.

I further certify that I am not a relative
or employee or attorney or counsel of any of the
parties, or a relative or employee of such attorney
or counsel, or financially interested directly or
indirectly in this action.

In witness whereof, I have hereunto set my
hand and affixed my seal of office on this 3rd day of
February, 2020.



TAMMY R. O'NEAL, RPR
Notary Public

My commission expires 8/2/23.